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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,152	12/18/2001	Jeffrey D. Frego	65-96	6641

25542 7590 07/25/2003

CNH INTELLECTUAL PROPERTY LAW DEPARTMENT
CASE NEW HOLLAND INC.
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MS 641
NEW HOLLAND, PA 17557

EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT PAPER NUMBER

3671

DATE MAILED: 07/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,152

Applicant(s)

FREGO, JEFFREY D.

Examiner

Nathan S Mammen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziegler et al. (U.S. Patent 4,967,544) in view of Vogelaar (U.S. Patent 2,766,572).

The Ziegler '544 patent discloses an agricultural vehicle having a hydro-mechanical reel drive system. The reel drive comprises a hydraulic header circuit including a hydraulic reservoir supplying fluid to a hydraulic pump (61) to drive the header. What the Ziegler '544 patent does not disclose is that the hydraulic circuit activates a steering mechanism or that the pump is a variable pump.

The Vogelaar '572 patent teaches that it is known in the art to provide a single hydraulic circuit for activating the steering mechanism as well as driving other hydraulic motors (col. 3, lines 42-46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the agricultural vehicle of the Ziegler '544 patent with the single hydraulic circuit arrangement of the Vogelaar '572 patent for activating both the header and the steering mechanism, in order to provide a simplified and cheaper hydraulic circuit that still ensures sufficient power to the steering mechanism (Vogelaar – col. 1, lines 60-67).

The Ziegler '544 patent does not disclose a variable pump. Instead, the supply of hydraulic fluid is varied by using a flow control valve (70). It would have been obvious to one

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having ordinary skill in the art to provide a variable pump, since it is well-known that variable pumps can be used in the place of flow control valves in order to meter the supply of hydraulic fluid to a circuit.

Regarding claims 2-6, 11-15: The Vogelaar '572 patent further teaches that the single hydraulic circuit comprises a valve stack (col. 3, lines 58-65). The valve stack comprises a priority valve that operates to preferentially supply fluid to the steering circuit (col. 1, line 70). The valve stack includes two directional control valves (V and H) that operate to supply hydraulic fluid. Providing an additional directional control valve would be obvious to one having ordinary skill in the art.

Regarding claims 7-9, 16, 17: The Ziegler '544 patent discloses that the agricultural vehicle includes valves that are solenoid operated. The Ziegler '544 patent also discloses the use of a load circuit (100) to control the amount of hydraulic fluid supplied.

Response to Arguments

3. Applicant's arguments filed 4/1/03 have been fully considered but they are not persuasive.

Applicant has traversed the statement of rejection in the last office action (and repeated above) that it would be obvious to one having ordinary skill in the art to replace a flow control valve with a variable pump because it is well-known that variable pumps can be used in place of flow control valves. Applicant demands proof of the obvious statement, under MPEP 2144.03. Accordingly, Examiner has cited the Industrial Hydraulic Technology bulletin by Parker Training of Parker Hannifin Corporation, a well-know supplier of hydraulic components for agricultural and construction equipment. First, Applicant's attention is directed to pages 9-1 and

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12-9, which describe generally a flow control valve and a flow control circuit, respectively. In particular, the flow control circuit is used to provide a precise fluid flow, with the remaining output of a pump being dumped into the tank. See bulletin page 12-9. Applicant's attention is next directed to pages 13-16 and 13-17, the portion entitled "hydraulic pumps in a circuit." This section describes how a hydraulic system can use either a constant output pump (or pumps) with a flow control valve to meter fluid volume or a variable pump to meter fluid volume. One of skill in the art would find it obvious to substitute the two.

Regarding Applicants arguments about the load sensing line of claims 8 and 17:

Applicant has not claimed that the load sensing line is a hydraulic line. By sensing the speed of the reel, the load circuit (100) of the Ziegler '544 patent is sensing the hydraulic load.

Accordingly, under MPEP 2144.03, the prior art cited is added "as merely evidence of the prior well known statement [and] does not result in a new issue," and thus this action is being made final.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

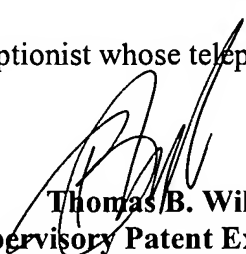
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 305-3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
7/16/03

Nathan S. Mammen